S.B. CIVIL MISC. APPEAL NO 813/2006
(Smt.Rameshwari & ors. Vs. Sanjay & others)

DATED : 05.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.S.P.Sharma for the appellants.

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By way of this appeal the claimant-appellants seek to challenge the award dated 10.12.2005 made by the Motor Accident Claims Tribunal, Parbatsar in Claim Case No.13/2005; and seek enhancement over the compensation of Rs.4,02,600/- awarded by the Tribunal on account of accidental death of Banwarilal, husband of appellant No.1, father of appellants No.2 and 3 and son of appellants No.4 and 5.

Brief relevant facts are that the deceased Banwari Lal and Madan Lal were riding a Motor Cycle bearing Registration No.MH 14 AD 2510 at Nasik-Pune Highway when they were hit by a tempo mini truck bearing Registration No. MH 14 F-8421 and both of them died because of the injuries sustained in the accident. The trial of two claim cases made by the dependents of the deceased being Claim Case No.11/2005 and 13/2005 was consolidated by the Tribunal and both the claim cases have been decided together by the impugned award

In relation to claim case No.13/2005 the present appellants claimed compensation on account of death of Banwarilal stating his age at 28 years and being engaged in furniture job and his income at Rs.7500/- per month.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid tempo mini truck and held the respondents liable for compensation.

While taking up quantification of compensation, the Tribunal found that no proper evidence was adduced in relation to the income of the deceased and in the overall circumstances took his income at Rs.2400/- per month and took the dependency of the claimants at Rs.1,600/- per month; and looking to the age of the deceased between 25 to 28 years, applied a multiplier of 18 and thereby calculated pecuniary loss at Rs.3,45,000/-. The Tribunal also awarded Rs.2,000/- as funeral expenses and Rs.55,000/- as non-pecuniary compensation towards loss of consortium to the wife and loss of love, affection, guidance and services for the other claimants. The Tribunal has, therefore, made an award of Rs.4,02,600/- in favour of the claimants and allowed them interest @ 6% per annum from the date of filing of the claim application.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased

and his future prospects, the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has seriously erred in awarding interest only @ 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that this appeal remains bereft of substance and deserves to be dismissed.

The deceased was about 28 years of age and when no definite proof of his income has been produced; and the deceased has not been shown in any settled employment the Tribunal cannot be said to be in error in taking a reasonable figure of Rs.2400/- as monthly income of the deceased. Taking his contribution at Rs.1600/- per month to the claimants , the Tribunal has adopted a multiplier of 18 and looking to over all circumstances of the case and the age of the claimants and the deceased such choice of multiplier remains rather on the higher side. The Tribunal has further liberally allowed non-pecuniary compensation at Rs.15,000/- to the wife and so also to each of the child and further Rs.10,000/- to the parents, in all Rs.55,000/-. Reasonable amount towards funeral expenses has also been awarded. The award made by the Tribunal stands definitely on higher side and any claim for enhancement thereto does not sound justified. The Tribunal has of course awarded interest only @

6% per annum but in this claim application moved in the month of January, 2005 and decided in the month of December, 2005, such choice of interest rate too is not on the lower side.

Having regard to the overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award cannot be said to be inadequate so as to warrant any interference in appeal. The award is rather on the higher side.

In this view of the matter, there is no ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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